

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\* \* \* \* \* 19CR10117-IT-10  
UNITED STATES OF AMERICA \*  
VS. \* SEPTEMBER 26, 2019  
\* 11:00 A.M.  
STEPHEN SEMPREVIVO \*  
\* \* \* \* \* BOSTON, MA

BEFORE THE HONORABLE INDIRA TALWANI  
DISTRICT JUDGE  
(Sentencing)

**APPEARANCES:**

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1       26 SEPTEMBER 2019 -- 11:00 A.M.

2               THE CLERK: United States District Court is now  
3 in session, the Honorable Judge Indira Talwani  
4 presiding. This is Case No. 19CR10117, the  
5 United States v. Stephen Semprevivo.

6               Will counsel please identify themselves for  
7 record.

8               MS. KEARNEY: Good morning, Your Honor.  
9 Kristen Kearney and Eric Rosen for the Government.

10              THE COURT: Good morning.

11              MR. KENNER: Good morning, Your Honor.  
12 David Kenner, Alvin Entin and Steve Boozang for  
13 Mr. Semprevivo.

14              THE COURT: Good morning.

15              We are here for sentencing, and I will go  
16 through first the documents that I have received and  
17 reviewed. I have the presentence report. It was  
18 prepared on August 7th and revised on September 4th. I  
19 do not have a sentencing recommendation from the  
20 Probation Office per the Government's objection.

21              I have the Government's memorandum regarding  
22 methodology for calculating gain or loss under the  
23 guidelines, that was Docket 420 and amended at 422;  
24 Probation's submission in response to my order that was  
25 for 40, and all of that was addressed in my memorandum

1 and order. That's Docket 443.

2 I have reviewed the Government's sentencing  
3 memorandum as to all Defendants, that's 423, was filed  
4 September 6; and an additional sentencing memorandum  
5 as to Mr. Semprevivo, that's Document 466 filed  
6 September 19; Defendant's sentencing memorandum, as  
7 filed at Docket 469. I believe it was first filed at  
8 467. I haven't reviewed the difference between the two  
9 documents, if any. So I have reviewed 469 after I  
10 granted leave for excess pages and Exhibits 1 through  
11 16, including the sealed unredacted Exhibits as 1A, 1B  
12 and 2B. And I have a victim-impact statement from  
13 Georgetown that was dated August 2nd.

14 To my knowledge, there is no other material that  
15 has been submitted by the parties to the Court; is that  
16 correct?

17 MR. KENNER: Yes, Your Honor.

18 MS. KEARNEY: Your Honor, after the submission  
19 of the Government's sentencing memo, we did receive a  
20 breakdown of the restitution requests from Georgetown,  
21 which we did properly provide to Probation and to  
22 defense counsel.

23 THE COURT: Okay. I haven't received that.

24 MS. KEARNEY: May I provide it now?

25 THE COURT: I'll look at it.

1           And this was submitted to you on September 18;  
2           is that correct?

3           MS. KEARNEY: Yes, Your Honor.

4           THE COURT: So just so that the Government,  
5           since you're a repeat player here, if you could  
6           understand what information I do and don't receive from  
7           Probation, it might help in sentencings.

8           When the Probation Officer provides the initial  
9           presentence report to the parties, I don't get a copy  
10          at that time. When you file your objections, I don't  
11          get the copy of those written objections. What I get  
12          is what you see, that final presentence report that  
13          gets to you, that's what I see.

14          I can thereafter make requests to the Probation  
15          Officer for anything else, but I don't -- simply  
16          because you hand something to the Probation Officer  
17          doesn't satisfy getting in front of me, and part of  
18          that is because there's a procedure for what I have and  
19          what documents I have and what are part of the record.  
20          And when the Government or a party thinks that I have  
21          all of this other material that isn't part of a Court  
22          record, it sort of misunderstands the process.

23          So I did not see this. Your giving it to  
24          Probation means it was available for me to request from  
25          Probation, but I don't think I even knew that you gave

1       it to Probation. You did mention that you had received  
2       it on the 18th. But, at any rate, if you're looking to  
3       file something for my attention in advance of a  
4       sentencing, the way to do it is a motion for leave to  
5       file something.

6               MS. KEARNEY: Yes, Your Honor.

7               THE COURT: Thank you.

8               MR. KENNER: Your Honor?

9               THE COURT: Yes.

10              MR. KENNER: I have previously handed your Clerk  
11       a couple of documents. One is a document from  
12       Volunteers of America/Upward Bound. This is a more  
13       readable copy of Attachment 2 to Exhibit 16, which is  
14       the information and material from Volunteers of  
15       America. When reviewing it, I found it a little  
16       difficult to read, so I provided you with a clearer  
17       copy.

18              THE COURT: Okay. I was just handed three  
19       pieces of paper, so tell me what the three pieces of  
20       paper -- one is --

21              MR. KENNER: There's --

22              THE COURT: Hold on a minute. One is a clearer  
23       copy of Attachment --

24              MR. KENNER: 2, which follows the letter from  
25       Bob Pratt in Exhibit 15 -- I'm sorry -- Exhibit 16. I

1 apologize.

2 THE COURT: Exhibit 16 is 467 --

3 MR. KENNER: The materials from Volunteers of  
4 America, Your Honor.

5 THE COURT: Okay. And --

6 MR. KENNER: And you will notice there is an  
7 Attachment 2.

8 THE COURT: Yes. So it's a 32-page document.  
9 I'm just trying to figure out which page you're  
10 replacing of the 32 pages.

11 MR. KENNER: It would be the fifth page,  
12 Your Honor. At the top it reads, "Attachment 2" and  
13 "Upward Bound."

14 THE COURT: Yes, it is far more legible than  
15 that one, and the Clerk will replace -- it's Document  
16 467-17, Page 8 of 32, and if you could replace it with  
17 this page, that would be great.

18 MR. KENNER: Thank you.

19 THE COURT: What else? And the other two are  
20 what?

21 MR. KENNER: There is one document that  
22 Mr. Semprevivo received just reflecting that the  
23 insurance company, as a result of this case, is not  
24 willing to renew his insurance.

25 THE COURT: So that's a new document?

1 MR. KENNER: Yes.

2 THE COURT: Okay.

3 MR. KENNER: And the other new document,  
4 Your Honor, is a declaration from Attorney Mark Zade,  
5 declaration dated September 24th, 2019. He was local  
6 counsel in the lawsuit where Adam Semprevivo sued  
7 Georgetown. And I've given a copy of that to the  
8 Government, both of those documents.

9 THE COURT: So with regard to the -- well, let  
10 me break these down in two separate pieces. If the  
11 notice of non-renewal of insurance the Clerk could add  
12 to the docket as an additional filing by the  
13 Defendants.

14 The restitution calculation, I assume the victim  
15 would want that filed under seal, as would be  
16 appropriate for these things, but that can be added to  
17 the docket as a sealed document.

18 With regard to this further declaration, I think  
19 we may want to wait until we get to the discussion  
20 about that --

21 MR. KENNER: Certainly.

22 THE COURT: -- filing of the lawsuit. This  
23 raises questions, I would imagine, that whatever  
24 happened there in those negotiations are probably  
25 considered by the parties to the negotiation

1 confidential. I understand the reasons why you would  
2 want to put this in there in light of the allegations  
3 made by the Government, but until we address how to  
4 deal with those allegations of the Government, we don't  
5 know that we want to add this to the docket at this  
6 point.

7 MR. KENNER: Okay. Thank you, Your Honor.

8 THE COURT: So, with that, anything further?

9 MS. KEARNEY: No, Your Honor.

10 MR. KENNER: No, Your Honor.

11 THE COURT: And Ms. Kearney, do you have any  
12 witnesses or victims present who plan to make any  
13 statements?

14 MS. KEARNEY: No, Your Honor.

15 THE COURT: Thank you.

16 And for defense counsel, have you had an  
17 opportunity to review all the materials submitted in  
18 connection with the sentencing?

19 MR. KENNER: Yes, Your Honor.

20 THE COURT: Have you gone over it with the  
21 Defendant?

22 MR. KENNER: Yes, Your Honor.

23 THE COURT: Mr. Semprevivo, have you reviewed  
24 all the material?

25 THE DEFENDANT: Yes, Your Honor.



1           THE COURT: And have you had a chance to discuss  
2 it with your counsel?

3           THE DEFENDANT: Yes, Your Honor.

4           THE COURT: And to counsel, also, were you  
5 expecting any evidentiary hearing?

6           MR. KENNER: I do have several people  
7 that I would like to address the Court. One is  
8 Andrew Chambers. He has submitted a letter. He is a  
9 former FBI Agent, co-head of the Anti-Terrorism Task  
10 Force in Los Angeles as his last position. He's known  
11 Mr. Semprevivo for 15 years and has flown from  
12 California to briefly address Your Honor.

13           The other is Mr. Bob Pratt who is the President  
14 and CEO of Volunteers of America Los Angeles with whom  
15 Mr. Semprevivo has already been working since I believe  
16 May of this year and who has flown here on a red eye to  
17 be able to address Your Honor briefly.

18           THE COURT: Okay. Thank you.

19           So let's go to the objections to the presentence  
20 report. Government Objections 1 through 9 I believe  
21 were addressed in my earlier memorandum.

22           Is there anything further, understanding that  
23 you are maintaining that objection?

24           MS. KEARNEY: Just that we would want it noted  
25 for the record.

1 THE COURT: Thank you.

2 So I am overruling those objections, as per my  
3 memorandum.

4 Objection 10 is restitution. So the question I  
5 have for the Government on restitution is that there is  
6 a procedure under 28 USC 3664 which envisions that,  
7 during the presentence report process, the Government  
8 would notify Probation of the potential victims, and  
9 the intention of all of that is that, when I am sitting  
10 here making a determination about a sentence, that I  
11 have all of this information in front of me. And there  
12 is a small window that says that, if a victim's losses  
13 are not ascertainable by a date that is ten days prior  
14 to sentencing, I can set a date not to exceed 90 days  
15 after sentencing.

16 So here I think what you've given me, as I  
17 understood from your sentencing memorandum, is a  
18 document that was -- reflects attorneys' fees incurred  
19 by Georgetown through August 28. That's a date that  
20 was more than ten days before sentencing, so how do you  
21 get that in now?

22 MS. KEARNEY: Your Honor, while the last date of  
23 the costs incurred was more than ten days before  
24 sentencing, I don't believe that Georgetown necessarily  
25 had that information on August 28th.

1 THE COURT: Why not?

2 MS. KEARNEY: Because the law firm would have to  
3 prepare their bills and --

4 THE COURT: Okay. So normally a law firm will  
5 prepare their bills with the urgency that their client  
6 tells them, and certainly the law firm would be the one  
7 to know that there is a statutory timeline for  
8 submitting these expenses.

9 MS. KEARNEY: And, Your Honor --

10 THE COURT: So how do I -- it just -- I  
11 understand that it is important to make sure that  
12 victims are entitled to their appropriate restitution,  
13 but there is a procedure, and it seems that this is  
14 just sort of ignoring that.

15 MS. KEARNEY: Your Honor, I don't have a reason  
16 why Georgetown did not get the information to the  
17 Government earlier. We were provided the information  
18 on September 18th. We promptly provided that  
19 information, as I said, to Probation and to defense  
20 counsel.

21 I would note the two cases that we cite in  
22 Footnote 3 of our brief do focus on the purpose of the  
23 statute being to compensate victims not at the sake of  
24 procedure. And, in fact, in the *Dolan* case, 560 US  
25 605, there the Court noted that all the information

1        necessary to determine restitution was available before  
2        the deadline, and the Court still had the authority to  
3        order restitution after the deadline.

4                Likewise, in the *Cheal* case from the  
5        First Circuit, 389 F.3d 35, the Government, at a  
6        minimum, could provide an estimated restitution amount  
7        at the sentencing, and the Court had the authority to  
8        hold a hearing later to determine that final  
9        restitution amount.

10               THE COURT:    So in the *Parling* case, the Supreme  
11        Court acknowledged that, although the primary purpose  
12        of restitution is to reimburse the victim, that it has  
13        a punitive effect, and it is potentially something to  
14        consider under excessive fines.

15               So the Government is putting me -- or the victim  
16        is putting me in the situation where I am entering  
17        judgment today that would include an appropriate amount  
18        of a fine, and then you're saying to me, In 90 days, we  
19        can come forward and tell you the amount of restitution  
20        that should be awarded.

21               And I've previously asked the Government's  
22        position on this question in a different case as to  
23        whether I could then amend the judgment fine, the  
24        answer being no.    So you've put me in a position at  
25        sentencing of trying to determine what the right

1 punishment is, and what you're basically saying to me  
2 is, Impose a punishment that includes a fine -- that's  
3 part of what you've said -- and at the same time we're  
4 going to come back, that in order to respect the  
5 victims' needs, will have a second punitive effect on  
6 the Defendant.

7 MS. KEARNEY: Your Honor, I believe that one of  
8 the issues with the restitution here is that this is  
9 one of several Defendants who've been charged who  
10 victimized Georgetown --

11 THE COURT: And, in fact, the Georgetown  
12 statement focuses on Defendant Ernst, not Defendant  
13 Semprevivo.

14 MS. KEARNEY: Correct. And one of the issues is  
15 that Georgetown is still incurring losses in connection  
16 with those other Defendants in terms of participating  
17 in the investigation and prosecution.

18 THE COURT: And as to expenses that are ongoing  
19 and later, I think those do fall within the statutory  
20 provision for amounts that are not yet ascertainable.  
21 So I acknowledge that later expenses may still be  
22 raised up through a later date.

23 MS. KEARNEY: Correct.

24 THE COURT: My problem is this first \$105,000.

25 MS. KEARNEY: But the fact that later expenses

1       can later be raised I think goes to your concern about,  
2       Is this now overly punitive? Because even in cases  
3       where later expenses are ascertained after the 60 -- or  
4       excuse me -- after the 90 days after sentencing, Courts  
5       still have the authority to award restitution in those  
6       cases, and it's not considered overly punitive.

7               THE COURT: Well, it might be. I mean, the  
8       Supreme Court hasn't directly held this, but they  
9       certainly said it may be something to consider as to  
10      whether something amounts to an excessive fine.

11             MS. KEARNEY: And I believe that would be an  
12      issue that the Court could analyze at the later  
13      hearing. Again, we've asked that this restitution  
14      amount not be entirely on Mr. Semprevivo, we've asked  
15      for it to be awarded joint and severally with the other  
16      Defendants, and in that case, the Court can make the  
17      analysis at that further hearing whether  
18      Mr. Semprevivo's portion would be overly punitive.

19             THE COURT: Well, I don't remember -- I don't  
20      have the list in front of me of who has some  
21      involvement with Georgetown and who doesn't and who has  
22      pled guilty and who doesn't, but it's possible -- there  
23      are 50-some Defendants here -- it's possible that there  
24      may be some persons who might be part of this involved  
25      with Georgetown whose resolution at sentencing will be

1 much later than the 90 days.

2 MS. KEARNEY: Yes, Your Honor. And that's one  
3 of the difficulties we're faced with and why we are  
4 asking not to address that issue today but to put it  
5 off for a later date so that we will have more  
6 information as to who has been convicted by that time.

7 THE COURT: Yes?

8 MR. KENNER: Yes. May I be heard, Your Honor?

9 I was planning to address restitution as part of  
10 my letting the Court understand our sentencing  
11 position.

12 The first thing I want to say is I heard  
13 Your Honor make reference to a letter from Georgetown.  
14 I have not received a letter from Georgetown. I  
15 received four pages breaking down the legal expenses of  
16 a law firm.

17 THE COURT: I'm sorry. I listed the letters. I  
18 asked if you had reviewed everything. Let's go back.  
19 And maybe I didn't list it as one of the documents that  
20 I have received and reviewed.

21 Victim-impact statement from Georgetown dated  
22 August 2nd, 2019. Are you saying you did not receive  
23 that?

24 MR. KENNER: I have four copies of the -- four  
25 pages of the expense report.

1           THE COURT: Can we make a copy of that? I have  
2 it here, and let's provide a copy to --

3           MS. KEARNEY: And Your Honor, I would note it's  
4 attached to the presentence report as well.

5           PROBATION OFFICER: Yeah, I believe it was sent  
6 as an attachment to the final presentence report.

7           MR. KENNER: I'm sorry. It didn't have these  
8 numbers at the time.

9           THE COURT: No, no. It doesn't have any  
10 numbers. It's a letter.

11          MR. KENNER: Yes.

12          THE COURT: So let's just make sure you have the  
13 letter that I'm referring to --

14          MR. KENNER: Yes. Well, that --

15          THE COURT: -- this August 2nd letter.

16          MR. KENNER: Yes, I have that, Your Honor.

17          THE COURT: That's the only letter that I  
18 received from Georgetown. But that is the  
19 victim-impact statement that was submitted by  
20 Georgetown. So now, if you can -- was there any  
21 further question on that?

22          MR. KENNER: I just wanted to make reference to  
23 an email that I sent to Ms. Kearney after I received  
24 these numbers asking for any material that is reflected  
25 by these hours of attorney service that had to do with



1 Mr. Semprevivo and Georgetown. I have to assume, for a  
2 \$105,000 of subpoena compliance, that they must have  
3 had some information there relative to Mr. Semprevivo.

4 I note that there was an internal investigation  
5 done at Georgetown in 2017, before this case came to  
6 be. I don't know if this material includes that  
7 investigation. That was an investigation of Mr. Ernst.  
8 In 2017, he was relieved of his duties during the  
9 investigation. He was terminated on I believe the 6th  
10 of June of 2018, and I am led to believe that he got a  
11 letter of recommendation from Georgetown to the  
12 University of Rhode Island to coach tennis.

13 My point is, Your Honor, there has to be  
14 material that is represented by this that has to do  
15 with Mr. Semprevivo. Why I haven't been provided that,  
16 I don't know. I certainly think I'm entitled to it, at  
17 least to the extent that it pertains to my client.

18 THE COURT: Okay. So this is what we're going  
19 to do on the restitution issue at this point, only as  
20 to the objection in the presentence report: I'm  
21 overruling the objection. I'm keeping the presentence  
22 report the way it is.

23 That said, the victim has their own rights and  
24 ability to ensure that these issues are addressed and,  
25 if necessary, addressed on appeal. So if the

1 Government is asking for a hearing within 90 days, I  
2 will set the hearing, and we will address things there.

3 It is also my intention, unless someone  
4 convinces me that this would not be a legal way to  
5 proceed, it is my intention to make any fine in this  
6 case to be an amount less any amounts of that that are  
7 paid for restitution. So in the event that I award --  
8 I impose a fine, I don't intend the fine to be  
9 duplicative. I will fine at the maximum amount of the  
10 fine I think is appropriate, but I don't intend to do  
11 the fine with restitution in excess of that fine or  
12 without taking into account that fine.

13 So I can't -- once I enter the judgment, I can't  
14 change the fine, but I do believe I can state on the  
15 judgment a fine of X amount, less amounts ordered for  
16 restitution.

17 Is there any objection to my proceeding in that  
18 manner?

19 MS. KEARNEY: No, Your Honor.

20 MR. KENNER: No, Your Honor.

21 THE COURT: Okay. So I think that resolves all  
22 of the objections.

23 For Probation, was any information withheld from  
24 the presentence report pursuant to Rule 32(d)(3)?

25 PROBATION OFFICER: No, Your Honor.

1 THE COURT: Thank you.

2 Okay. So that takes us to the guideline  
3 sentencing calculation. The base offense level, I  
4 think everyone agrees, is 7. Based on my prior  
5 findings regarding the claimed gain and loss, rejecting  
6 that argument, there are no increased levels, getting  
7 us to an adjusted offense level of 7; a two-level  
8 decrease for acceptance of responsibility, total  
9 offense level of 5.

10 And I guess, just to keep the record clear here,  
11 the Government objects to that calculation; is that  
12 correct?

13 MS. KEARNEY: Yes, Your Honor.

14 THE COURT: And in the Government's view, the  
15 total offense level should be --

16 MS. KEARNEY: In the Government's view, the  
17 total offense level should be a 16.

18 THE COURT: Okay. And I have found and do  
19 continue to find the appropriate total offense level  
20 here is a level 5.

21 I think everyone has agreed there are zero  
22 criminal history points, which puts Mr. Semprevivo in  
23 Criminal History Category I.

24 So in terms of the sentencing options before the  
25 Court, under the statute, I have authority to impose a

1 sentence of -- a custodial sentence of not more than  
2 20 years. Under the guidelines, as I have calculated  
3 them, that is a custodial sentence of zero to six  
4 months; under the statute, supervised release of not  
5 more than three years, a guideline provision would be  
6 one to three years; probation under the statute would  
7 be one to five years, guideline is not more than three  
8 years; statutory provision is not more than 250,000 or  
9 twice the gain/loss, which I have determined here to be  
10 zero, so it would be not more than 250,000, the  
11 guideline provision is 500 to 9,500; and special  
12 assessment of \$100; and restitution, which I am holding  
13 thus far was not timely submitted as to past  
14 restitution but which may be available for future  
15 restitution or ongoing expenses.

16 Any disagreement with those calculations other  
17 than the Government's objection, as previously stated?

18 MS. KEARNEY: No, Your Honor.

19 MR. KENNER: No, Your Honor.

20 THE COURT: Okay. So with that, I will hear  
21 from the Government.

22 MS. KEARNEY: Thank you. May I use the podium?

23 THE COURT: Absolutely.

24 MS. KEARNEY: The Government's sentencing  
25 memorandum highlights the contours of Defendant's

1       conduct. He involved his son in his scheme, including  
2       by having him send a completely false email to  
3       Gordon Ernst, the Georgetown tennis coach, stating that  
4       he played very well with terrific success in doubles  
5       this summer and played quite well in singles too and  
6       was looking forward to having a chance to play for  
7       Ernst at Georgetown.

8               This Defendant paid the highest bribe amount of  
9       any Defendant before the Court in this case, \$150,000  
10       more than the bribe paid by Devin Sloane who was before  
11       Your Honor two days ago. He knew that his payment was  
12       going to bribe Ernst and was not going as a donation to  
13       Georgetown. He carried out his calculated and  
14       strategic conduct over the course of eight months,  
15       despite numerous opportunities to stop the process  
16       between the time he caused his son to send that email  
17       to Gordon Ernst in August of 2015 and his payment of  
18       that \$400,000 bribe in April of 2016. And, by the way,  
19       that email that kicked off the scheme was sent two  
20       months before his son's Georgetown application was  
21       submitted and five months before the application was  
22       actually due.

23              And after he was arrested, after he pled guilty,  
24       he's tried to retain the fruits of his fraud by suing  
25       Georgetown to enjoin it from expelling his son,

1       essentially revictimizing the University.

2               THE COURT:   Okay.   So let me now cut in to this  
3       question about how I should view litigation.   Here are  
4       my difficulties with the weight you want to put on that  
5       filing:   In the record I have in front of me -- and I  
6       have not gone to those Courts and those dockets and  
7       downloaded those -- but the record I have in front of  
8       me, even before the proffered affidavit here, I have a  
9       lawsuit is filed and a lawsuit that is withdrawn.

10              My assumption, without even reading this  
11       affidavit, is that there was a private resolution.   I  
12       don't know what that private resolution is.   I don't  
13       know the nature of -- well, I don't know the private  
14       resolution.

15              Are there words in that complaint that were  
16       filed by these lawyers on behalf of Mr. Semprevivo's  
17       son that sure look bad for Mr. Semprevivo?   There may  
18       well be.   Does that suggest good judgment in the choice  
19       of words to be used?   Maybe not.

20              But the underlying legal issue does seem a side  
21       issue, and without my opening up what happened and what  
22       the nature of the resolution and the underlying claim,  
23       it does seem that to pin that litigation as a driver of  
24       this action is unhelpful and essentially would -- I  
25       mean, I do think that, if that is where you go, I then

1 take this affidavit, if I find there's sort of a  
2 conflict between the information I have, you know, do I  
3 delve into it? Do I have an evidentiary hearing about  
4 what did and didn't happen at Georgetown?

5 I don't think that's the criminal sentence  
6 that's in front of me. So I think this is a point  
7 where the Government really can choose your direction  
8 here. If the argument you want to make to me is that I  
9 should take into account the litigation, then I will  
10 allow this affidavit, which I have not yet read  
11 carefully, to be filed, and we may need to get into  
12 what did or didn't happen at Georgetown.

13 MS. KEARNEY: Your Honor, the Government does  
14 not feel that you need to get into a dispute about what  
15 happened in the litigation. The Government also  
16 doesn't know the resolution that was reached other than  
17 what Defendant has put in his own papers. Even before  
18 he put in that affidavit, he acknowledged that the  
19 result of the action was that his son was allowed to  
20 keep the credits he had earned at Georgetown.

21 THE COURT: Okay. So I don't have in front of  
22 me a meritless suit. I don't have in front of me  
23 litigation that was dismissed by the Court; I have in  
24 front of me litigation -- I would agree with you that  
25 there are choices of words used by the lawyers that are

1 somewhat inappropriate and perhaps get into the whole  
2 idea of Mr. Semprevivo's reliance on experts and that  
3 maybe he should have used his own judgment to tone some  
4 of those words down.

5 But regardless, I have a lawsuit that asserted a  
6 claim that was resolved to the agreement of those  
7 parties. I can't just say that this was a frivolous  
8 lawsuit that should somehow be sanctioned. I think the  
9 Government's words in your brief were actually quite  
10 strong. I think you said it was an abuse of process.  
11 "Abuse of process" is a legal term, and you know,  
12 Mr. Semprevivo's son, regardless of what his father  
13 did, Mr. Semprevivo's son had a right to petition for  
14 redress of grievances. That's what your  
15 First Amendment right is. You can file a lawsuit. And  
16 it wasn't thrown out of Court, it wasn't dismissed. To  
17 call that an abuse of process seems to me to be pushing  
18 the argument away.

19 But, at any rate, if you do want to go there, I  
20 put the affidavit in, we'll get into what the merits of  
21 what the resolution were.

22 MS. KEARNEY: We'll move on.

23 THE COURT: Okay.

24 MS. KEARNEY: In fact, I want to focus today on  
25 what sets this Defendant apart, and that's a level of



1       egregiousness beyond what has been seen so far in this  
2       case.

3               Two days ago, the Court observed that the  
4       suggestion that the focus of this case is on  
5       independent school students was about as tone-deaf as  
6       you've heard. Well, I think we have a new winner. In  
7       his sentencing memorandum, the Defendant refers to  
8       himself as the victim throughout his brief. The  
9       Defendant's audacity is breathtaking.

10              He pled guilty to get the benefit of an early  
11       plea, and now he claims he is the victim, literally.  
12       He writes, at Page 6 of his sentencing memo, "Singer  
13       began to create what would eventually become his  
14       college racketeering enterprise in which he would  
15       gross more than \$25 million from victims like  
16       Stephen Semprevivo." And at Page 11, he says that he  
17       is analogous to a victim in a Hobbs Act extortion.

18              This is not the Government summarizing or  
19       reading into the Defendant's brief; these are the  
20       Defendant's own words. He is not a victim; he is a  
21       co-conspirator. The victims are the University and the  
22       students who did not get into Georgetown because of the  
23       bribe Defendant paid. It's like Defendant does not  
24       even remember that he pled guilty to a Federal crime.  
25       His own words reveal a lack --

1           THE COURT: Just to be clear, he did allow this  
2 memorandum to be filed on his behalf, but since  
3 everything here is being amplified around the country,  
4 let's be very clear. I have Mr. Semprevivo's own  
5 words, those are his letter to the Court; I have the  
6 words that are offered on his behalf by his lawyer. So  
7 when you say "in his own words," refer to his letter,  
8 and if you want to talk about the memo, the memo filed  
9 on his behalf. I will take it that he's responsible  
10 for what is filed, but you're going to have the press  
11 corps quoting you as saying, This is in his own words.  
12 It's not his own words; it's his lawyer's words that he  
13 allowed to be filed on his behalf.

14           MS. KEARNEY: Thank you for that clarification.

15           The words in his sentencing memo reflect a lack  
16 of acceptance of responsibility and a disturbing lack  
17 of remorse for his conduct.

18           A term of imprisonment is necessary for this  
19 Defendant to understand the seriousness of his offense,  
20 to gain respect for the law and to receive just  
21 punishment. Quite simply, this Defendant does not  
22 believe he should be here. Under the words of his  
23 sentencing memo, he thinks he is here because of  
24 someone else's crime against him, that he is a victim  
25 of a Hobbs Act extortion.

1           In trying to convince the Court that he is  
2       the victim of his own crime, the Defendant blames  
3       Rick Singer for his conduct. He claims that he, a  
4       successful businessman with an undergraduate and MBA  
5       from Harvard, was afraid of the college counselor and  
6       what Singer would do to his son's applications if he  
7       pushed back. But Defendant had no problem taking  
8       control of his son's applications and submitting those  
9       applications to other schools, despite Singer's  
10      purported pressure not to do so and Defendant's claimed  
11      fear of Singer's reaction.

12           Most tellingly, though, Defendant had no problem  
13      pushing back on Singer in the consensually recorded  
14      calls, telling Singer, "Your dealings are your  
15      dealings, you did what you did, that was your stuff.  
16      I'm not going to take accountability for your actions."  
17      The calls make clear that Defendant was no passive wall  
18      flower or Singer's puppet; he was in control on those  
19      calls, trying to push the blame onto Singer and away  
20      from himself, just as he is trying to do now. But it  
21      gets even --

22           THE COURT: I agree with you that this Defendant  
23      and all of the parents are fully responsible for their  
24      own acts, and I agree with you that they aren't the  
25      victims. But just to be clear, is the Government not

1 taking the position that Mr. Singer is the leader of  
2 this conspiracy?

3 MS. KEARNEY: No. The Government is fully aware  
4 that Mr. Singer is the leader of this conspiracy, but  
5 that doesn't negate the Defendant's conduct.

6 THE COURT: No, no. But it doesn't -- you're  
7 not contending in any of these cases that the parents  
8 enticed Mr. Singer into this scheme?

9 MS. KEARNEY: No. But at the same time, the  
10 parents made the decision, and Mr. Semprevivo made the  
11 decision, to go forward.

12 THE COURT: That's noted. I'm not the one who's  
13 going to be sentencing Mr. Singer, but I just -- as  
14 these various arguments and positions from the parents  
15 are being filed, I agree with the Government entirely  
16 that the parents need to be held accountable, but I'm a  
17 little -- it is a little concerning when the leader of  
18 the conspiracy is the cooperator, to take some concern  
19 that his role in this isn't minimized. I don't want to  
20 say it excuses in any way, but I just -- I hear a  
21 little bit of a suggestion that somehow Mr. Singer is  
22 not blame-worthy, and it's just, let's be very clear,  
23 I'm not sentencing Mr. Singer, his blame isn't here,  
24 but he does appear to be the leader of this, not the  
25 follower.

1 MS. KEARNEY: Yes, Your Honor. And I apologize  
2 if my words came across as minimizing Mr. Singer. The  
3 intent was to show that the Defendant's attempt to  
4 minimize his responsibility falls flat.

5 THE COURT: Understood.

6 MS. KEARNEY: Perhaps most brazenly in this  
7 case, though, the Defendant claims that he has been  
8 punished enough already because of the financial losses  
9 he purportedly suffered as the victim of his own crime.  
10 He claims losses of his attorneys' fees in this case,  
11 the \$400,000 bribe he paid, the taxes he owes on that  
12 bribe after he fraudulently deducted it from his taxes,  
13 and the tuition payments he made to Georgetown.

14 The notion that this Court should go easy on the  
15 Defendant because he lost the value of his \$400,000  
16 bribe or the taxes he now owes on that bribe is not a  
17 concept found anywhere in the 3553(a) factors. That  
18 Defendant had the audacity to even consider these,  
19 quote, unquote, losses to be punishment further  
20 demonstrates his lack of acceptance of responsibility  
21 and his lack of remorse for his conduct.

22 In a true reflection of how little remorse he  
23 feels, in his sentencing memo, the Defendant does not  
24 even mask that he was engaging in this conduct for his  
25 own benefit. He was not doing what was best for his

1 son; but, rather, sought to get what he refers to, or  
2 his attorneys refer to at Page 7 of his brief, as the  
3 holy grail for successful businessmen and professionals  
4 like himself, admission for his child to an elite  
5 university, in other words, bragging rights.

6 That Defendant still cannot admit that what he  
7 did was criminal underscores the need for a sentence  
8 above the Court's calculated guidelines in this case,  
9 and for these reasons, the Government requests a  
10 sentence of 13 months' imprisonment, a \$95,000 fine,  
11 12 months of supervised release and restitution to  
12 Georgetown. Such a sentence is sufficient but not  
13 greater than necessary to achieve the purposes of  
14 3553(a).

15 THE COURT: Thank you.

16 I'll hear from Defendant's counsel.

17 MR. KENNER: Thank you, Your Honor.

18 Your Honor, I'm going to attempt to use my time  
19 to address what I believe to be Your Honor's key and  
20 core concerns with respect to how to calculate and  
21 impose sentence on Mr. Semprevivo.

22 The Government argues that there has not been an  
23 acceptance of responsibility. The Government argues  
24 that the sentencing memorandum filed on his behalf  
25 disclaims a crime having been committed by

1 Mr. Semprevivo, and the Government claims that he has  
2 not accepted responsibility.

3 I would like to refer the Court first to Page 2  
4 of the sentencing memorandum where, and I quote from  
5 it, "Semprevivo was informed that a 'donation to  
6 Singer's 501c3 charity, Key Worldwide Foundation" would  
7 be used to benefit the tennis program at Georgetown and  
8 garner for his son a preferential admission to the  
9 program. Semprevivo knew that the amount requested,  
10 coupled with the email and essay holding his son out as  
11 a competitive tennis player directed to Coach Ernst,  
12 were not logically related to a charitable donation.  
13 As Stephen Semprevivo noted in his letter submitted to  
14 Probation, that was when he should have notified the  
15 authorities."

16 And on Page 3, it goes on to say, "Semprevivo  
17 verily believes that some part of the \$400,000 paid to  
18 Key Worldwide was received by Ernst through Singer. It  
19 is believed that Singer took part of the money as  
20 well." I don't think that that is reflective of a  
21 denial of having committed the crime.

22 On Page 10 of the sentencing memorandum, it  
23 reads, "Semprevivo felt that he had been placed in a  
24 quandary to make a judgment. For many reasons, as  
25 amplified in Dr. Romanoff's report, Semprevivo did not

1 choose wisely. By failing to stop the process, he went  
2 from being a victim to also becoming a co-conspirator.  
3 Singer never told him that the tennis coach was being  
4 bribed and that the money was being split with Singer.  
5 He realized that taking a shortcut outside normal  
6 admissions process was wrong and illegal, and his own  
7 failure to act was wrong. He was and remains deeply  
8 remorseful that he acted against his own character and  
9 diminished himself by surrendering his integrity."

10 Finally, Your Honor, I would quote from Page 11  
11 of the sentencing memorandum where we say, "The crime  
12 is certainly serious, and there's no question about  
13 that. The nature and circumstances of this offense  
14 clearly show that Semprevivo knowingly broke the law,  
15 permitting false emails and essays to be transmitted  
16 through the mails. Clearly some payments paid to  
17 Singer's ostensible 501c3 charity went to compensate  
18 the tennis coach to get a preferred admission.  
19 Stephen Semprevivo knows he was wrong and suffers from  
20 that daily."

21 So, Your Honor, while the Government chooses to  
22 select some portions of the sentencing memorandum, I  
23 would submit to this Court that to glean from the  
24 overall sentencing memorandum that Mr. Semprevivo  
25 perceives himself to be a victim is disingenuous on the



1 part of the Government.

2 Your Honor, I also want to, if I might -- I  
3 would also like to read from some of the sentencing  
4 memorandum -- some of the letters that we submitted  
5 together with the sentencing memorandum. They all go  
6 to the question of when and that he accepted  
7 responsibility.

8 THE COURT: I am going to let you make your  
9 presentation as you see appropriate. I do read all the  
10 material that is submitted to me. And I maybe should  
11 say to you before I get nine more of these, I don't  
12 feel I need an expert report from a criminologist to  
13 tell me how to rule here, particularly where it's the  
14 same criminologist that's going to be probably  
15 presenting for everybody in LA. I'm not sure. But I  
16 don't need that. I am reading -- I don't need someone  
17 to have quoted all the letters to me. I'm reading the  
18 letters. I'm reading the material. This notion of  
19 primary sources? I'm going to the primary source. I'm  
20 not going to the criminologist's review of the primary  
21 source.

22 You're welcome here to present what you need to  
23 present here, I don't want to cut you off, but do rest  
24 assured I have read the material in front of me.

25 MR. KENNER: Your Honor, I know that. I simply

1 want to read from the letters a sentence or two that  
2 refers to acceptance of responsibility. And it's  
3 important to note that these letters that I'm making  
4 reference to were written long before the -- any  
5 sentencings in this case took place.

6 And I want to start, if I can, with  
7 Mr. Semprevivo's letter where he says, "This is not  
8 a letter" -- well, you've read his letter. You know  
9 what it says. I don't have to quote from it. But it's  
10 a clear statement of acceptance of responsibility.  
11 Rita Semprevivo, his wife, attests to his acceptance of  
12 responsibility.

13 Andrew Chambers, who I asked if Your Honor would  
14 be willing to listen to -- might this be an appropriate  
15 time for me to ask him to interrupt me to address the  
16 Court?

17 THE COURT: That would be fine.

18 MR. KENNER: Thank you.

19 Go to the podium, please.

20 MR. CHAMBERS: Your Honor, thank you for this  
21 brief opportunity to address the Court.

22 I was an FBI Agent for 30 years almost, serving  
23 from 1985 to 2014. My wife reminded me we've actually  
24 known Mr. Semprevivo for 19 years, not 15 years. She's  
25 usually right.

1           So I have only two topics I wish to address.  
2       Stephen -- number one, Stephen Semprevivo is a good  
3       husband, a good friend, a good father, until recently a  
4       law-abiding member of the community. After this over,  
5       I am sure he will be another law-abiding.

6           After -- second topic: After his arrest, I  
7       reached out to Steve, offering to write a letter on his  
8       behalf to the Court, if needed, addressing his normal  
9       integrity and character. That conversation started  
10      with me trying to explain and rationalize what had  
11      happened based on my readings. Steve wanted nothing do  
12      would that. He totally accepted his guilt. He stated,  
13      "This is on me." He's never tried to explain it. He's  
14      never made up stories. I do believe he has totally  
15      accepted his guilt.

16           As an FBI Agent working 25 years criminal,  
17      mainly 91 matters, bank robberies, I dealt with a lot  
18      of criminals, and I rarely saw that acceptance of  
19      guilt. Obviously, it was a different avenue, but I do  
20      ask that the Court take this in consideration and give  
21      the most downward departure possible.

22           Thank you.

23           THE COURT: Thank you.

24           MR. KENNER: Thank you, sir.

25           I would refer next to the letter of

1 Mr. James Burns written on April 28th of 2019 where he  
2 says, relative to acceptance, "Knowing Stephen's  
3 temperament, values and what a deliberative thinker he  
4 is, I was shocked to learn of his involvement in this  
5 case. But I was not surprised when Stephen told me  
6 straightforwardly and without explanation that he was  
7 guilty and that he was going to be accountable for his  
8 actions."

9 That same sentiment is expressed next,  
10 Your Honor, by James Celentano where he writes, "When I  
11 finally spoke with Stephen over this past weekend" --  
12 and this letter is -- I'm sorry -- this letter is dated  
13 April 30th of 2019 -- he says, "He shared how much he  
14 regretted his actions, the pain the situation has  
15 created, especially for his son, and what a profound  
16 learning experience this is for him. Knowing Stephen  
17 all these years, it was not surprising that he is  
18 accepting responsibility, pleading guilty and seeking  
19 to learn and give back to society as much as he can."

20 Mark and Renee Paul, who I'll speak about later,  
21 write in their letter dated May 24th, 2019, they that  
22 they introduced Stephen to Mr. Singer after he worked  
23 with their child.

24 The next letter is a letter from Sandy Vella.  
25 Sandy Vella writes on April 26th of 2019, "In order to

1 grow and help kids grow, Stephen knows he not only  
2 needs to accept what he did but must lead the way,  
3 ensuring this experience is not forgotten."

4 On May 27th of 2019, Matthew Coffin writes, "The  
5 first time that Stephen and I spoke of this unfortunate  
6 situation, he did not give me a story of 'they don't  
7 understand' or 'everyone is doing it.' Instead, he  
8 stated to me quite clearly that he was ashamed and was  
9 not going to fight this, again, taking the humble and  
10 responsible person's approach."

11 Your Honor, I could go through 15 more and read  
12 from them. I'm sure Your Honor has read them. They  
13 all attest, at a very early stage of these proceedings,  
14 Mr. Semprevivo's acceptance of responsibility. We say  
15 it in our sentencing memorandum, all of these people  
16 say it, and most importantly, as Your Honor said,  
17 Mr. Semprevivo says it himself.

18 The Government makes the point about  
19 Mr. Semprevivo having involved his son, and as he has  
20 said, that is something for which he has great shame  
21 and terrible remorse. But I want Your Honor to  
22 understand, just to give context of this case, this is  
23 not a case where an African American tennis player was  
24 replaced for a white tennis player in its application  
25 that Mr. Singer sent to a number of institutions,

1 including Georgetown. This was not a case where, as  
2 you heard the day before yesterday, where a costume was  
3 obtained, a hat or a cap with "Italy" on it. This was  
4 not a case where Adam Semprevivo cheated on his scores,  
5 on his test scores --

6 THE COURT: Why do you say this isn't a case  
7 where another applicant didn't lose out on a position,  
8 on a placement?

9 MR. KENNER: No. I'm saying this is -- I'm  
10 trying to put it in a continuum, the levels of  
11 involvement.

12 THE COURT: I understand that, but you just made  
13 the assertion that this isn't a case -- and you used  
14 race, but putting race aside, this is a case where one  
15 student got the position instead of a different -- got  
16 the offer letter instead of a different student.

17 MR. KENNER: There is no question, and we  
18 acknowledge that, and I will speak to that momentarily.

19 THE COURT: I don't have evidence what color  
20 skin the person had who didn't get it or what their  
21 income was. I do know that the person who got it is --  
22 I don't know, but I'm perhaps guessing here probably  
23 didn't have the same resources to pay a \$400,000 bribe  
24 for the position or Mr. Singer might have offered it to  
25 them. It's a different person who didn't get that

1 offer, no?

2 MR. KENNER: Your Honor, we raised this in a  
3 footnote on Page 11 of the sentencing memorandum, and I  
4 want to be very clear, this is not a victim-less crime.  
5 Your Honor is wholly and totally correct about that.  
6 Georgetown is not a victim of Stephen Semprevivo, in my  
7 view; they're a victim of Gordon Ernst.

8 The children that did not get an opportunity to  
9 get the spot that Mr. Semprevivo's son got, they are  
10 the victims of Mr. Semprevivo, and we accept that and  
11 want to be very clear about it.

12 THE COURT: Just so we're clear about  
13 Georgetown's standing here in this case, I have agreed  
14 with the Probation Officer that they did not articulate  
15 specific monetary losses sufficient to be measured for  
16 purposes of gain and loss. I have not found that they  
17 aren't a victim of this conspiracy, and the conspiracy  
18 is the crime in front of me. And so to say, Well, it  
19 was Mr. Ernst's part of the conspiracy rather than  
20 Mr. Singer's part of the conspiracy, rather than  
21 Mr. Semprevivo's part of the conspiracy, I can't parse  
22 it that way. I think that, as long as you agree that  
23 Georgetown is a victim of the conspiracy, then it's a  
24 victim.

25 MR. KENNER: I do believe that they're a victim

1 of the conspiracy. I also agree that Mr. Ernst was  
2 paid \$2.5 million, going back to 2012, by Mr. Singer.  
3 I also agree that there was an investigation by  
4 Georgetown in 2017, an independent internal  
5 investigation of Gordon Ernst. The results of that  
6 independent investigation were that Mr. Ernst was  
7 placed on leave and then terminated and fired from the  
8 University. I don't know what that report actually  
9 said. I've been asking for it. I have never received  
10 it.

11 THE COURT: Well, and in the event that I don't  
12 order restitution and Georgetown proceeds on a civil  
13 claim for a claim based on a loss of honest services of  
14 Mr. Ernst, all of that might come out in discovery.

15 But that's not where we are here. We're in this  
16 criminal proceeding here.

17 MR. KENNER: I understand that, Your Honor, and  
18 I want to also acknowledge that the essence of the  
19 crime here is the corruption of the college admissions  
20 program or the methodology by which it takes place  
21 that Mr. Singer facilitated, Mr. Semprevivo paid him,  
22 he knew that money was being paid as a bribe to  
23 Gordon Ernst, and it's not a victim-less crime,  
24 Your Honor.

25 I wholeheartedly agree, and I want to underscore



1       that on behalf of Mr. Semprevivo who says that  
2       essentially in his own memorandum, and other people  
3       have said it as well, that there are people who didn't  
4       get a spot that Mr. Semprevivo's son got because of the  
5       bribe that was paid from Stephen Semprevivo to Singer  
6       to Ernst, and that's clear. And we own that, and I  
7       believe we have no -- Mr. Semprevivo wants to own it,  
8       and he's owned it since the time he entered the plea in  
9       this case.

10               I want to move to the 3553 factors. Your Honor,  
11       again, in seeking a punishment sufficient but not  
12       greater than necessary in this case -- and I know you  
13       want to address each Defendant individually and with  
14       respect to their situation -- I can say, and I know  
15       Your Honor has read all of it, that Mr. Semprevivo,  
16       unlike Government's depiction, has accepted  
17       responsibility and has expressed great remorse, which  
18       he will live with for the rest of his life.

19               This is not a situation where he is trying to  
20       walk away from this. He acknowledges that the crime  
21       was committed; he acknowledges that he hurt the child  
22       that didn't get in; he acknowledges that he hurt the  
23       integrity of the entire admissions process, as it's  
24       meant to be; and he understands that he was a  
25       participant in the corruption of the admissions scheme,

1 and I don't say that derogatorily, but the way in which  
2 colleges approach admitting students.

3 And for all of that, he is very sorry. And  
4 unless Your Honor has any other questions, I would  
5 submit on that.

6 THE COURT: You had mentioned before you had one  
7 other person who --

8 MR. KENNER: Oh, yes. I'm so sorry. Mr. Pratt.

9 MR. PRATT: Good morning, Your Honor.

10 THE COURT: Good morning.

11 MR. PRATT: I'm proposing that Mr. Semprevivo  
12 begin immediately work as a full-time volunteer for  
13 Volunteers of America of Los Angeles in behalf of a  
14 number of our youthful clients. The first group is  
15 runaway homeless youth, including great numbers of  
16 LGBTQ and victims of sex-trafficking and young newly  
17 discharged veterans who have become homeless and are  
18 exhibiting symptoms of PTSD.

19 This focus will be on job training in the  
20 construction trades for these young people. And this  
21 project only came about because of six months of work  
22 beginning in the beginning of April on the part of  
23 Mr. Semprevivo, creating a social enterprise for  
24 Volunteers of America, which would be a business,  
25 placing two- and three-bedroom units in the back yards

1 of single-family residences in Los Angeles, producing  
2 income to underwrite the training for this population  
3 of youth.

4 I see Mr. Semprevivo as a key part of that  
5 training. It's a combination of classroom and  
6 on-the-job training with the installation of these  
7 units, and a lot of key issues need to be worked with  
8 with these youngsters, including world-of-work issues,  
9 what it takes to get and hold a job; financial  
10 literacy; and, even more particularly, the one  
11 commonality of these youngsters, sadly, is what we call  
12 deficiency stories. They have been told in so many  
13 different ways that they'll never amount to anything,  
14 and that's a real story for them, but it's not a true  
15 story. I've seen Mr. Semprevivo as an entirely  
16 compassionate and engaged person, internally motivated  
17 to do something about social problems.

18 The other group that he will work with are  
19 Upward Bound students. Upward Bound is a program that  
20 volunteers operates throughout the City of Los Angeles  
21 providing pre-college support for youngsters who will  
22 be the first in their family to attend college. The  
23 Upward Bound regimen is extensive. All day Saturday  
24 the students come together for workshops, for financial  
25 counseling and for other things that are going to be

1       necessary for them to not only succeed in enrolling in  
2       college but completing their degrees.

3               The other facets of the program provide  
4       after-school tutoring for the youngsters, sometimes at  
5       our program site, sometimes in the high schools  
6       themselves, and there's also a provision for after  
7       hours that is convenient for the students when they're  
8       doing their homework for Skype interaction, and I would  
9       propose that Mr. Semprevivo be part of all of that. A  
10      lot of these students have a great interest in  
11      business, but they're intimidated. I can't think of a  
12      better role model for business than Mr. Semprevivo.

13              And an interesting side light that I've  
14      experienced with him -- he's got a wonderful,  
15      easy-going, accepting, patient disposition -- is he's  
16      badgered me continuously for all the information I can  
17      gather for him about the homeless issue in Los Angeles  
18      and about what the solutions would be.

19              So I would offer the Court this opportunity as  
20      an alternative in behalf of Los Angeles's most needy  
21      youngsters.

22              Thank you.

23              THE COURT: Thank you.

24              MR. KENNER: Your Honor, might I just add the  
25      programs specifically are set forth in the Attachment 2

1       that I provided you a more legible copy of and has --  
2       Mr. Semprevivo has made a commitment to every Saturday  
3       and two afternoons or evenings a week to work with  
4       these children, and he has been working with Mr. Pratt  
5       to get that together and to make it -- they currently  
6       serve 500 students. Mr. Semprevivo's goal -- 500  
7       students a year. Mr. Semprevivo's goal is to increase  
8       that to 1,000 students a year.

9               Having said all of that, I am not unmindful of  
10      Your Honor's previous comments with respect to the need  
11      to have some imprisonment for the people that were  
12      involved in this. I am mindful and respectful of that.  
13      And toward that end, I would suggest and recommend to  
14      the Court a sentence of 90 days, a split sentence,  
15      45 days in custody and whatever -- for the other 45 and  
16      more, if Your Honor sees fit, in-house arrest so that  
17      he can quickly get back to assisting Mr. Pratt in these  
18      great things and still serve some time.

19             THE COURT: Thank you.

20             Mr. Semprevivo, do you want to address the  
21      Court?

22             THE DEFENDANT: Yes.

23             Thank you, Your Honor. I deserve to be punished  
24      for the illegal actions that I took. I believe that  
25      you will sentence me to some time in prison, and I want

1       you to know that I accept any sentence that you deem  
2       fit. I am fully responsible and take full  
3       responsibility for my actions and feel I should be  
4       punished.

5               I apologize to the Court, Your Honor, the  
6       US Government for all of the resources and time it's  
7       taken to bring my case forward. I apologize to all the  
8       college-bound students and their parents and the  
9       terrible example I've set for them and the fact that  
10      I've led them to lose faith in the college admissions  
11      process. I'm so sorry for that.

12             I apologize to all of the young people who I've  
13      mentored throughout my career who I've taught to be  
14      honest and trust-worthy both in the office and outside  
15      the office first. I've let you all down, and I'm sorry  
16      for that.

17             And I apologize to my wife Rita who has forgiven  
18      me, but I don't deserve that. She's been the rock for  
19      us. She's been supportive to our entire family  
20      throughout this. She doesn't deserve this.

21             I apologize to my son Adam who my activities  
22      have hurt him so much. He's been a great son who has  
23      never let me down, and I apologize, Adam. I've let you  
24      down so much here. You didn't deserve this.

25             I apologize to my son Jordan who, because of all

1       that's been going on, this has impacted his health.

2       I'm sorry, Jordan, that had to happen.

3               I want to apologize to my sister and my brother  
4       who have been very supportive to me throughout this.  
5       I'm sorry for bringing shame on our family.

6               I want to apologize to the rest of my family and  
7       my friends who have been supportive. I've let you all  
8       down.

9               Again, Your Honor, I take full responsibility  
10      for my actions. This is the first and only crime and  
11      certainly the last crime I will ever commit. Moving  
12      forward, I'm going to make good and be true to all  
13      those people that I've let down.

14              I -- you know, after any time in incarceration,  
15      I look to give back to my community, specifically, if  
16      Your Honor deems fit, to work with Volunteers of  
17      America in helping youth and homeless.

18              Thank you, Your Honor.

19              THE COURT: Thank you.

20              So I am required to consider the factors at  
21      18 USC, Section 3553(a), and I have considered those  
22      factors. I need to consider the nature and  
23      circumstance of the offense, the Defendant's personal  
24      criminal history and characteristics, purposes of  
25      sentencing, the kinds of sentences available, the kinds

1 of sentence and sentencing range established for the  
2 category of offense committed by the category of  
3 Defendant under the guidelines, the need to avoid  
4 unwarranted sentencing disparities among defendants  
5 with similar records who have been found guilty of  
6 similar conduct and the need to provide restitution to  
7 victims.

8 With regard to the purposes of sentencing, I  
9 must consider those factors that I just listed and  
10 impose a sentence that is sufficient but not greater  
11 than necessary to comply with these purposes; that is,  
12 that they will reflect the seriousness of the offense  
13 and promote respect for the law, provide just  
14 punishment for the offense, afford adequate deterrence  
15 to criminal conduct, protect the public from further  
16 crimes of this Defendant and provide the Defendant with  
17 corrective treatment in the most effective manner.

18 I'm going to start here with the nature of the  
19 offense. The Government has described two different  
20 fraudulent schemes as part of this conspiracy: The  
21 test-taking scheme, which was a set of actions,  
22 including bribes and changing test answers; and the  
23 recruitment scheme, which includes bribes and  
24 fraudulent profiles. Both of these types of conduct --  
25 both of these schemes involved illegal fraudulent



1       conduct, in violation of the same statute. The purpose  
2       of the two schemes was somewhat different, though. The  
3       purpose of the test-taking scheme was to change one  
4       aspect of a student's application to make that  
5       application more competitive. The purpose of the  
6       recruitment scheme was to gain a specific spot at a  
7       university.

8               Here, this Defendant was not involved in any way  
9       in the test-taking scheme. He was, however, involved  
10      in the recruitment scheme. And as I consider the  
11      culpability of those two different schemes, I do  
12      view -- they're both fraud, they're both illegal, they  
13      both violate the same statute, but there is something  
14      that's an order of magnitude different about actually  
15      buying a specific spot at a university versus  
16      fraudulently changing part of an application.

17             And so while I -- and I disagreed with the  
18      Government about using the dollar differences that the  
19      different parents paid as a proxy for the gain or loss.  
20      I do think the ballpark prices for the two different  
21      types of schemes, 15,000 to 75,000 for changing test  
22      answers versus 250,000 to 400,000 for buying spots,  
23      showed that Mr. Singer and the parents involved also  
24      have an understanding of the different orders of  
25      magnitude of the two schemes. So the nature of the

1 crime in front of me was purchasing that spot or trying  
2 to purchase that spot, conspiring to purchase that spot  
3 at a particular university.

4 The difference between the 250,000 and 400,000  
5 doesn't give me any light, though, on culpability. The  
6 fact that one coach charged more to get a spot for a  
7 student at one university versus the price that was  
8 charged at a different university doesn't make one  
9 crime more or greater or less in my mind. So with  
10 regard to the specific offense, I don't see a  
11 difference between the parent who paid 250,000 and the  
12 parent who paid 400,000 just because the coaches seemed  
13 to be charging different prices.

14 This particular crime did involve -- the  
15 Defendant did involve his son, and I think that is a  
16 factor that does make the nature of the crime more  
17 serious, as I think the Defendant understands. And I  
18 do find that the nature of this crime does drive an  
19 incarcerative sentence, although I find, unlike the  
20 Government, that that should fall within the guideline  
21 range of the zero to six months.

22 And part of that and part of the nature of the  
23 circumstances here is, again, the nature of general  
24 deterrence. And this is a case that I do -- I don't  
25 usually agree with the Government on this, but I do

1 think on this one, this is a -- in this case, that  
2 these sentences may have a generally deterrent effect.

3 I turn to the Defendant's personal history and  
4 characteristics. And as with all of these, with the  
5 Defendants I have sentenced so far, and I would not be  
6 surprised to find the case the same with the Defendants  
7 still to come in front of me, the people have generally  
8 been law-abiding and respected members and decent  
9 members of their community.

10 It doesn't excuse the crime. It is taken into  
11 account to some measure by the fact that there's zero  
12 criminal history here and by the fact that I will not  
13 be imposing a sentence to protect the society further  
14 from this Defendant. I do view that as helpful in  
15 trying to determine any likelihood of recidivism.

16 I did -- and I have a hard time sometimes  
17 distinguishing between overzealous advocacy and where a  
18 Defendant actually views things. I don't think that  
19 the harm suffered by this Defendant can be seen as  
20 greater than the harm that's suffered by a person who  
21 commits a felony who is poor. The dollar value, they  
22 may have lost a job that only was paying \$10 an hour  
23 versus losing a job that was paying much, much more,  
24 but certainly the economic effect is going to be far  
25 greater on the person who doesn't have the resources

1 both in terms of your background and experience and  
2 capabilities and connections. You don't have to go,  
3 when you get out of this, and apply for a job where you  
4 have to check a box and will never be considered once  
5 you check that box.

6 So somewhere in the papers there was a  
7 suggestion of a fear of losing a home or that you won't  
8 be able to rebuild your professional life. I don't  
9 find those arguments persuasive, but I also am not sure  
10 that those are ones that I am pinning on you rather  
11 than perhaps the excessive advocacy here. I do -- I  
12 give you no extra points for the harm suffered, but I  
13 am not detracting from -- by the presentation here.

14 I keep coming back to the excuse for what  
15 happened here that people are using, and I'd like to  
16 quote one of the letters that one of the parents wrote  
17 because I think this is something to reflect on. The  
18 parent wrote, "As anybody who has had a high schooler  
19 navigating the chaotic, arbitrary and, frankly,  
20 terrifying college admissions process knows, the  
21 importance of relying on academic tutors and  
22 consultants with expertise to help our kids is  
23 crucial."

24 That terrifying college admission process, think  
25 about how terrifying that college admission process is

1       for the applicant whose parents didn't even go to  
2       college. Think how terrifying that process is for the  
3       students and parents who don't have the resources to  
4       hire tutors and consultants with expertise no matter  
5       how crucial that might be.

6               And think about the inner city or rural students  
7       who might not have any resources but nonetheless make  
8       their way into a college but with scores more like your  
9       kids had before you started tutoring rather than  
10      afterward, and they get into these colleges, and their  
11      legitimacy is challenged every day that somehow they  
12      were the ones who got a break to get there, rather than  
13      the child who arrived there with all of these  
14      resources.

15             I don't criticize you for being taken in by a  
16      person with masterful skills of deception. That's how  
17      crimes happen all the time is some people get other  
18      people to commit crimes, and that's where we end up  
19      with a crime and a conspiracy. And I also -- I do  
20      understand, from what I'm hearing in these papers, that  
21      Mr. Singer was open to parents in rooms, in lecture  
22      halls, parents with lots of money to whom he pitched  
23      the side door, and I think the question that all of  
24      these parents need to ask is not, Well, of course we  
25      all hired an expert; I think the question that people

1       need to ask is: What makes your children entitled to a  
2       side door?

3               I am -- as I said earlier, I am not considering  
4       the lawsuit against Georgetown in part of the  
5       sentencing. I don't have sufficient information to  
6       make any determination that that was an abuse of legal  
7       process that overstated the circumstance.

8               I do find that you are remorseful and have taken  
9       acceptance of responsibility for this. And in making a  
10      determination that incarceration is needed, I don't  
11      believe it is needed further for personal  
12      rehabilitation or protecting you from -- protecting the  
13      community from you, but I do find that incarceration is  
14      appropriate, despite no prior record.

15              I intend to impose a sentence of four months of  
16      incarceration; I intend to impose two years of  
17      supervised release; community service as part of the  
18      rehabilitation, and I will order 500 hours of community  
19      service. I don't have any reason to think that this --  
20      your proposed placement is inappropriate, but I will  
21      leave that in -- the first review of that by the  
22      Probation Office.

23              I am focusing on community service, as it seems  
24      like your proposal includes, in making sure that you're  
25      not simply using your managerial talents to continue

1       doing managerial work, you're welcome to do that in  
2       addition to the 500 hours but that the 500 hours are  
3       really directed at the time spent directly with  
4       students or families.

5               On the fines, I agree with the Government that a  
6       guideline fine in this case would not be a sufficient  
7       punitive fine.

8               Sentencing Guidelines Section 5E1.2(d) states  
9       that the amount of the fine should be sufficient to  
10      ensure that the fine, taken together with other  
11      sanctions, is punitive, and so I intend to impose a  
12      fine of \$100,000, which is well in excess of a  
13      guideline fine but is just 40 percent of the amount  
14      that you paid as a bribe in this case. But I will  
15      include on the judgment that, if restitution is  
16      ultimately awarded, that would be -- the fine is  
17      100,000 less the restitution that would be awarded.

18              So that is the sentence that I intend to impose.  
19      It is a sentence that is sufficient but not greater  
20      than necessary to accomplish the goals of sentencing.

21              Any objection before I formally impose -- oh,  
22      I'm sorry. All of the same -- all of the supervision  
23      conditions that are listed in the presentence report at  
24      Pages 36 to 38, a special assessment of \$100 and no  
25      restitution based on the amounts incurred prior to

1 August 31, but I will set a sentencing date -- a date  
2 for hearing for restitution within 90 days for any  
3 further costs that had not been determinable at that  
4 time.

5 So with that, any objections before I formally  
6 impose sentence?

7 MS. KEARNEY: No, Your Honor.

8 MR. KENNER: No objections, Your Honor. But I  
9 would ask that the Court make a judicial recommendation  
10 to the lowest security camp at the Taft facility of the  
11 Bureau of Prisons, and I would ask that he be allowed  
12 to self-surrender to that facility.

13 THE COURT: I'm happy to order a self-surrender,  
14 and I'm happy to order a judicial recommendation to a  
15 facility commensurate with his security level at a  
16 particular location. I am advised by the Bureau of  
17 Prisons that they don't appreciate a particular  
18 facility name. So tell me what the location is where  
19 you would like the --

20 MR. KENNER: The location would be in the  
21 Central District of California.

22 THE COURT: We'll make that recommendation.

23 MR. KENNER: And is Your Honor recommending a  
24 camp or lower security?

25 THE COURT: I will recommend the lowest security



1 commensurate with his security level. The presentence  
2 report shows no reason for there to be anything other  
3 than the lowest security level. But, again, the Bureau  
4 of Prisons makes the determination from those facts.

5 MR. KENNER: Yes. Thank you, Your Honor.

6 THE COURT: So Mr. Semprevivo, will you please  
7 stand.

8 Pursuant to the Sentencing Reform Act of 1984,  
9 and having considered the sentencing factors enumerated  
10 at 18 USC, Section 3553(a), it is the judgment of the  
11 Court that the Defendant, Stephen Semprevivo, is hereby  
12 committed to the custody of the Bureau of Prisons to be  
13 imprisoned for a term of four months.

14 I will make a judicial recommendation that you  
15 be incarcerated at a facility commensurate with your  
16 security level in the Central District of California,  
17 and you will be permitted to self-surrender. What date  
18 would that be?

19 PROBATION OFFICER: Your Honor, generally it's  
20 four to six weeks for designation purposes.

21 THE COURT: So November -- is that Tuesday,  
22 November 7th?

23 PROBATION OFFICER: I believe six weeks would be  
24 Thursday, November 7th.

25 THE COURT: Thursday, November 7th, for

1 self-reporting.

2           Upon release from imprisonment, you shall be  
3 placed on supervised release for a term of two years.  
4 And within 72 hours of release, you shall report in  
5 person to the district to which you are released.

6           I am ordering that you shall pay the  
7 United States a fine of \$100,000, less any amount of  
8 restitution that is imposed, and that amount will be  
9 due after any determination and resolution of any -- I  
10 guess it's not technically an appeal if the victim  
11 disagrees with my findings, but it's a writ, but any  
12 resolution of those proceedings, 14 days after that.

13           While on supervision, you have to comply with  
14 the mandatory conditions of supervision. You must not  
15 commit another Federal, state or local crime. You must  
16 not unlawfully possess a controlled substance.  
17 Drug-testing conditions are suspended based on my  
18 determination that you pose a low risk of substance  
19 abuse. You must cooperate in the collection of DNA, as  
20 requested by the Probation Office.

21           The additional mandatory conditions: You must  
22 make restitution, if any is ordered, and pay the \$100  
23 assessment, which I guess I didn't say, but there's a  
24 \$100 special assessment, and you must pay that, as  
25 imposed. You must also pay the fine in accordance with

1 the schedule I will set forth on the judgment. And you  
2 must notify the Court of any material change in your  
3 economic circumstances that might affect your ability  
4 to pay so long as any amounts are outstanding.

5 You shall comply with the standard conditions  
6 that have been adopted by the Court, which are  
7 described at Sentencing Guidelines Section 5D1.3(c).

8 And then, during the period of supervised  
9 release, you must -- within six months from release of  
10 custody, you must cooperate with the Examination and  
11 Collection Division of the IRS. You must provide to  
12 the Examination Division all financial information  
13 necessary to determine your prior tax liabilities. You  
14 must provide to the Collection Division all financial  
15 information necessary to determine your ability to pay.  
16 You must file accurate and complete tax returns for  
17 those years for which returns were not filed or for  
18 which inaccurate returns were filed, and you must make  
19 a good-faith effort to pay all delinquent and  
20 additional taxes, interest and penalties.

21 You're prohibited from incurring new credit  
22 charges or opening additional lines of credit without  
23 the approval of the Probation Office while any  
24 financial obligations remain outstanding. You must  
25 provide the Probation Office access to any requested

1 financial information, which may be shared with the  
2 Financial Litigation Unit of the US Attorney while any  
3 financial obligations remain outstanding.

4 You must complete 500 hours of community service  
5 at an agency approved by the Probation Office; and,  
6 again, that would be an agency providing direct  
7 services to students or their families. And the  
8 special assessment of \$100.

9 With that, the sentence is imposed for all the  
10 reasons previously stated and because the Court  
11 believes the sentence, in all its components, is  
12 reasonable and is a sentence that is sufficient but not  
13 greater than necessary to accomplish the goals of  
14 sentencing, consistent with 18 USC, Section 3553, and  
15 the Supreme Court's guidance.

16 Your plea agreement with the Government limits  
17 your rights of appeal. Under the terms of the plea  
18 agreement, you have waived your right to challenge your  
19 conviction on direct appeal or in a future proceeding,  
20 and you have waived your right to challenge your  
21 sentence on direct appeal or in a future proceeding.  
22 However, you may still appeal on the grounds of  
23 ineffective assistance or that the prosecutor engaged  
24 in misconduct.

25 So, with that, the sentence is imposed, as

1       stated.

2               There's no objection to -- you may be seated.

3               There's no objection to the Defendant remaining  
4 released and self-reporting; correct?

5               MS. KEARNEY: Correct.

6               THE COURT: I find by clear and convincing  
7 evidence that the Defendant is not likely to flee or  
8 pose a danger to the safety of any other person or the  
9 community if released, and he is released to  
10 self-report, as stated.

11              Failure to surrender for service of sentence  
12 pursuant to this judgment will result in a punishment  
13 of a fine or imprisonment for not more than ten years  
14 or -- and that any term of imprisonment shall be  
15 consecutive to the sentence imposed here. If you're  
16 convicted of an offense committed while on release, you  
17 should be sentenced in addition to a term of  
18 imprisonment of not more than ten years if the offense  
19 is a felony or not more than one year if it is a  
20 misdemeanor.

21              So, with that, you are directed to self-report  
22 to the designated Bureau of Prisons facility in six  
23 weeks.

24              Is there anything further?

25              MS. KEARNEY: No, Your Honor.

1 MR. KENNER: No, Your Honor.

2 THE COURT: And perhaps after you talk with  
3 Georgetown, you can let my Clerk know if we need to set  
4 a date for a further restitution hearing.

5 MS. KEARNEY: We'll do that. Thank you.

6 PROBATION OFFICER: Your Honor, and I just want  
7 to clarify for the record, I believe if you do issue a  
8 restitution order and issue an amended judgment with a  
9 restitution order, that you will then have to formally  
10 amend the fine amount in accordance with that  
11 restitution order. I think that that's the clearest  
12 way for the Accounting Department of our Clerk's Office  
13 to understand what moneys are going toward the fine and  
14 what moneys are going to the restitution without having  
15 to do the math themselves, so to speak. So I think, if  
16 you are going to amend it and include restitution, you  
17 also amend it and reduce the fine in accordance with  
18 the contingency that you have outlined.

19 THE COURT: Thank you. I think the point is  
20 well-taken, that it does need to be clear. The reason  
21 I'm wording it this way and not merely amending the  
22 fine is under the understanding that, once I've imposed  
23 a firm fine, I don't get to look back and change it,  
24 and so I am making clear right now at the time of  
25 judgment that the restitution would offset the fine.

1           MR. KENNER: Your Honor, may I just impose upon  
2 the Court to make a request that we be provided with  
3 discovery from the materials that were provided to the  
4 Government from Georgetown, as they relate to  
5 Mr. Semprevivo, for purposes of the restitution  
6 hearing, if there is one?

7           THE COURT: So at this juncture, I've denied  
8 Georgetown's request for restitution up through the  
9 August 31 billing. They're welcome to file a motion  
10 for seeking restitution for amounts incurred after  
11 August 31, and you can make your request in connection  
12 with that.

13           If they seek reconsideration of my order denying  
14 restitution, which I denied on a purely procedural  
15 issue, that they didn't file it ten days ahead, if they  
16 seek reconsideration of that and I allow it, you're  
17 welcome at that time to make your request for  
18 discovery. But it's premature.

19           MR. KENNER: Thank you, Your Honor.

20           THE CLERK: Court is in recess. All rise.

21           (Adjourned 12:40 p.m.)  
22  
23  
24  
25

C E R T I F I C A T I O N

I, Debra D. Lajoie, RPR-FCRR-CRI-RMR, do  
hereby certify that the foregoing pages are a true and  
accurate transcription of my stenographic notes in the  
above-entitled case.

/s/ Debra D. Lajoie

9/29/19